

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES BRYANT,

Plaintiff,

v.

Civil Case No. 22-12236  
Honorable Linda V. Parker

HEIDI WASHINGTON, *et al.*,

Defendants.

/

**OPINION AND ORDER DISMISSING CASE PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE 25(a)(1)**

James Bryant, an individual formerly incarcerated at the Thumb Correctional Facility in Lapeer, Michigan, initiated this pro se civil rights action pursuant to 42 U.S.C. § 1983 against Defendants Heidi Washington, Assistant Chief Medical Officer Unknown, O’Bell Winn, Gary Miniard, and Carroll Walker, alleging that they violated his Eighth Amendment rights by failing to establish effective protocols to prevent the spread of COVID-19. (ECF No. 1.) On May 16, 2023, Defendants filed a “Suggestion of Death” to notify the Court that Mr. Bryant passed away on March 1, 2023. (ECF No. 24.) On May 18, 2023, the Court entered an order for Defendants to serve Mr. Bryant’s sister, Ms. Barbara Ulmar, with the suggestion of death and submit proof of service to the Court. (ECF No. 25.)

Federal Rule of Civil Procedure 25 governs the substitution of a proper successor or representative of a deceased party. Rule 25(a)(1) allows the Court to

substitute “the proper party” where death of a party does not extinguish a claim. Fed. R. Civ. P. 25(a)(1). Rule 25(a)(1) requires a motion for substitution of a party to be filed within 90 days of the filing of the Notice of Suggestion of Death. *Id.* “If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.” *Id.*

For the 90-day period to commence, a suggestion of death must be filed on the record and “the suggestion of death must be served upon the other parties and the deceased’s successor.” *See Jenkins v. Macatawa Bank Corp.*, No. 103-CV-321, 2007 WL 737746, at \*1 (W.D. Mich. Mar. 7, 2007) (citing Fed. R. Civ. P. 25(a)(1)).

Beyond Defendants’ filing of the “Suggestion of Death,” they also served Ms. Ulmar by certified mail on May 22, 2023, and provided the Court with Proof of Service on June 20, 2023. (ECF No. 26-1). As such, Ms. Ulmar’s 90-day period to file a motion for substitution expired on August 20, 2023. As of the date of this order, no motion for substitution has been filed.

Accordingly,

**IT IS ORDERED** that this matter is **DISMISSED WITH PREJUDICE** pursuant to Federal Rule of Civil Procedure 25(a)(1).

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: August 22, 2023